National Labor Relations Board

Weekly Summary of NLRB Cases

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CASES SUMMARIZED

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C & B Flooring Associates, LLC (29-CA-24357; 349 NLRB No. 66) Albertson, NY March 30, 2007. Affirming the administrative law judge's decision, the Board found that the Respondent is a successor employer to Crockett and Buss and violated Section 8(a)(5) and (1) of the Act by refusing to recognize and bargain with Teamsters Local 80 as the exclusive collective-bargaining representative of its unit employees, and unilaterally changing the employees' terms and conditions of employment without notice to and bargaining with the Union; and violated Section 8(a)(1) by informing employees before they were hired that there would be no union at the company. [HTML] [PDF]

Chairman Battista, concurring in part, agreed that the Respondent unlawfully refused to recognize and bargain with the collective-bargaining representative of its predecessor's employees and by unilaterally setting initial terms of employment that differed from those of the predecessor. In finding the latter violation, the judge relied on *Advanced Stretchforming International,* 323 NLRB 529 (1997), enfd. in relevant part 233 F.3d 1176 (9th Cir. 2000), on remand 336 NLRB 1153 (2001), where the Board held that a successor employer, who violates Section 8(a)(1) by telling employees that there will be no union, forfeits a successor's normal right to set initial terms and conditions of employment. Chairman Battista did not pass on the validity of *Advanced Stretchforming*. Instead, he concluded that the Respondent's unilateral action was unlawful because the Respondent hired a workforce consisting solely of its predecessor's Union-represented employees and that the Respondent was a "perfectly clear" successor within the meaning of *NLRB v. Burns International Services,* 406 U.S. 272 (1972).

The Board modified the judge's recommended Order to conform to its standard remedial language and modified the make-whole remedy recommended by the judge for the Respondent's unlawful unilateral changes in accordance with its decision in *Planned Building Services*, 347 NLRB No. 64 (2006).

(Chairman Battista and Members Liebman and Walsh participated.)

Charge filed by Teamsters Local 807; complaint alleged violation of Section 8(a)(1) and (5). Hearing at Brooklyn, Dec. 20, 2001 and Feb. 20, 2002. Adm. Law Judge Eleanor MacDonald issued her decision May 3, 2002.

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Aztar Indiana Gaming Co., LLC d/b/a Casino Aztar (25-RC-10335; 349 NLRB No. 59) Evansville, IN March 23, 2007. The Board found, contrary to the Acting Regional Director, that the petitioned-for unit of the Employer's beverage subdepartment employees does not constitute a separate appropriate unit, and that the smallest appropriate unit must include all employees in the Employer's beverage, catering, and restaurant subdepartments. A unit limited to the beverage employees is inappropriate because the employees do not possess a community of interest separate and distinct from the restaurant and catering employees, the Board held. It remanded the case for further appropriate action. The Petitioner is Teamsters Local 215. [HTML] [PDF]

(Chairman Battista and Member Liebman and Walsh participated.)

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CDA, Inc. (15-CA-17832; 349 NLRB No. 58) Fort Rucker, AL March 26, 2007. Adopting an administrative law judge's findings, the Board held that the Respondent violated Section 8(a)(5) and (1) of the Act by failing to provide the Government Security Officers International and its Local 401 with the information it requested which was relevant and necessary to Union as the collective-bargaining representative of unit employees; and violated Section 8(a)(3) and (1) by discharging Bonnie Pitts on July 18, 2005, thereafter converting the discharge to a suspension, and by discharging her on Aug. 8, 2005. The Union requested information regarding employees who requested to be off on Father's Day, the granting and denial of such requests, and the reasons for denial. [HTML] [PDF]

The Respondent did not except to the judge's finding that its failure to provide requested information to the Union violated the Act. No party excepted to the judge's dismissals of the allegations that the Respondent unlawfully sent or threatened to send the names of employees who filed grievances to the Army's government contracting officer, told a prospective employer about an employee's union activity in an attempt to interfere with her job search, and refused to meet and bargain with the Union.

(Chairman Battista and Members Kirsanow and Walsh participated.)

Charge filed by Government Security Officers International and its Local 401; complaint alleged violation of Section 8(a)(1), (3), and (5). Hearing at Ozark on Nov. 13, 2006. Adm. Law Judge George Carson II issued his decision Dec. 27, 2006.

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Covenant Aviation Security, LLC (20-UD-445; 349 NLRB No. 67) San Francisco, CA March 30, 2007. Considering an issue of first impression, Chairman Battista and Member Kirsanow decided that the individual Petitioner's deauthorization petition must be processed even though the supporting signatures predate the execution of a contract containing a union-security provision. The majority reinstated the petition and remanded the proceeding to the Regional Director for further appropriate action. Member Walsh, dissenting, explained that Section 9(e)(1) of the Act "for sound policy reasons, clearly contemplates that the signatures gathered in support of a deauthorization petition may be collected only after the effective date of a collective-bargaining agreement containing a union-security clause." [HTML] [PDF]

The Regional Director dismissed the Petitioner's deauthorization petition as premature because the supporting signatures predated an effective union-security clause. The Board in May 2006 granted the Petitioner's request for review. In this decision on review, the majority held that based on the language of Section 9(e)(1), its legislative history, and Board precedent on deauthorization elections, "requiring the signatures underlying the showing of interest to postdate the effective union-security provision here would unjustly impede the right of employees to deauthorize a union shop."

Section 9(e)(1) provides:

> Upon the filing with the Board, by 30 per centum or more of the employees in a bargaining unit covered by an agreement between their employer and a labor organization made pursuant to Section 8(a)(3), of a petition alleging the desire that such authority be rescinded, the Board shall take a secret ballot of the employees in such unit and certify the results thereof to such labor organization and to the employer.

Chairman Battista and Member Kirsanow observed that, contrary to the dissent's contention, the "plain meaning" of Section 9(e)(1) does not resolve the question at issue and it is unclear as to whether the showing of interest in support of a deauthorization petition may be gathered in advance of an agreement containing a union-security clause. They wrote:

> Although it is clear from the statutory language that, *when filed*, a deauthorization petition must be supported by at least 30 percent of employees 'covered by' a contract containing a union-security provision, Section 9(e)(1) is devoid of language as to *when* the showing of interest must be gathered. The employees in the instant case are 'covered by an agreement' containing a union-security clause, and 30 percent of the employees so covered have supported a petition to get rid of that clause. The fact that the 30 percent expressed their desire prior to the coverage does not clearly invalidate their desire.

The majority reasoned that either Congress did not contemplate the question of whether the signatures supporting a showing of interest in a deauthorization petition may predate an effective contract containing a union-security clause, or that Congress did consider the question but left it to the Board, saying: "Either way, the fact of the matter is that the statutory language is inconclusive, thus it falls to the Board as the agency charged with administering the Act to fill in the statutory gap." The majority pointed out that although the Act does not conclusively resolve the issue, it is consistent with processing a 9(e)(1) petition supported by preagreement signatures. It wrote:

> Section 9(e)(1) reflects Congress's intent to subject union-security arrangements to employee veto. Our holding here clears away a perceived procedural obstacle to a timely election in which employees may decide whether to cast that veto. Like the statutory language, the legislative history behind the 1951 amendments to the Act does not speak directly to the issue, but it is certainly consistent with our holding that the 'covered by' language of Section 9(e)(1) applies only to the filing of a deauthorization petition and not to the dates of the signatures gathered for a showing of interest to support such a petition.

Accordingly, the majority found Congress's purpose of protecting employee free choice best effectuated by processing the instant petition, saying: "If we were to dismiss the petition on the basis of an assertedly premature showing of interest, we would effectively require these employees to engage in the essentially ministerial task of reiterating their already expressed desire to secure a deauthorization vote.

Dissenting Member Walsh stated:

> Sound policy considerations underlie the statute's requirement that the showing of interest supporting a deauthorization election must be collected after the employees are subject to a union-security clause. An employee's decision regarding whether or not to financially support a union is certainly related to the benefits the employee believes are achieved though union representation. A showing of interest obtained before employees know what contractual benefits a union has negotiated on their behalf is therefore a very poor indicator of the employees' interest in deauthorization.

Member Walsh believes that "using Board resources to conduct an election when the majority of the signatures supporting the petition were collected before the parties even began negotiating a contract exemplifies the kind of inefficiency that Congress sought to eliminate in doing away with authorization elections." He added that "a deauthorization election here will undoubtedly involve a substantial expenditure of Board resources given the varied hours and locations of bargaining unit members. Such an expenditure is unwise where employees signed the petition before they even had a reasonable chance to evaluate the benefits of the collective-bargaining agreement and the union-security clause contained in it."

(Chairman Battista and Members Kirsanow and Walsh participated.)

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Ferguson Enterprises, Inc. (36-CA-9878, et al.; 349 NLRB No. 57) Portland, OR March 26, 2007. The Board affirmed the administrative law judge's finding that the Respondent violated Section 8(a)(5) and (1) of the Act by unilaterally implementing a policy prohibiting employees from taking home their truck keys without bargaining with Teamsters Local 162 and by disciplining driver Scott Minard for violating the truck key policy. The judge found, and the Board agreed, that the truck key policy constituted a substantial and material change in the drivers' terms and conditions of employment, and that the unilateral implementation of the policy was therefore unlawful. Minard's discipline was unlawful because it was issued pursuant to the unlawfully implemented truck key policy. [HTML] [PDF]

Chairman Battista and Member Kirsanow reversed the judge's finding that the Respondent violated Section 8(a)(5) and (1) by unilaterally implementing a policy prohibiting employees from taking home their company-issued cell phones. Unlike the judge, they found that the General Counsel failed to establish that the implementation of the cell phone policy resulted in a substantial and material change in the drivers' working conditions. In this regard, Chairman Battista and Member Kirsanow held that the record did not support the judge's conclusion that the policy was a material change because it affected the drivers' ability to set up deliveries outside of work hours.

Member Liebman would find that the cell phone policy resulted in a substantial and material change in the drivers' working conditions because it essentially limited the drivers' ability to communicate with their customers and would affirm the violation.

(Chairman Battista and Members Liebman and Kirsanow participated.)

Charges filed by Teamsters Local 162; complaint alleged violation of Section 8(a)(1) and (5). Hearing at Portland, July 25-26, 2006. Adm. Law Judge John J. McCarrick issued his decision Oct. 23, 2006.

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Forsyth Electrical Co., Inc. (11-CA-16631, 16805; 349 NLRB No. 60) Winston-Salem, NC March 28, 2007. On remand from the U.S. Court of Appeals for the Fourth Circuit, the Board reversed its prior finding at 332 NLRB 801 (2000), that the Respondent violated Section 8(a)(3) and (1) of the Act by refusing to grant preferential reinstatement rights to economic strikers David Jones, John Kimball, and Douglas Hill after their unconditional offers to return to work; and dismissed the complaint. [HTML] [PDF]

In the earlier decision, the Board affirmed the administrative law judge's rejection of the Respondent's argument that Jones, Kimball, and Hill were unproductive. The Respondent reiterated, in exceptions to the judge's decision, that it was justified in denying the three strikers reinstatement because of their participation in an unprotected prestrike slowdown. The Board found insufficient evidence to support the judge's finding that there was a generalized work slowdown or, even if there was, that Jones, Kimball, and Hill participated in it; and that the Respondent's defense was a post hoc pretext. By unpublished opinion dated June 30, 2002, the court denied the Board's petition for enforcement, vacated the Board's Order, and remanded the case for further explanation. *NLRB v. Forsyth Electrical Co*., 69 Fed. Appx. 164. The court held that the Board had provided an inadequate explanation for rejecting the judge's findings relating to the slowdown.

The Board, in this supplemental decision, accepted the court's remand as the law of the case and agreed that the Respondent had a legitimate and substantial reason justifying its denial of reinstatement rights if it proved the strikers engaged in an unprotected prestrike deliberate slowdown and it denied reinstatement rights for that reason. The Board decided that the Respondent has shown that it lawfully refused to reinstate Jones, Kimball, and Hill after they offered to return to work because before going on strike they, together with their discharged coworker Douglas Summers, engaged in an unprotected work slowdown coordinated by the Union to pressure the Respondent into hiring union members. Having found that the Respondent lawfully denied reinstatement because Jones, Kimball, and Hill engaged in an unprotected prestrike work slowdown, the Board found it unnecessary to address other issues presented by the court, including whether the Respondent proved it lawfully denied reinstatement for strikers because it no longer had job openings for them.

(Chairman Battista and Members Schaumber and Kirsanow participated.)

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Mark Burnett Productions (31-RD-1554; 349 NLRB No. 68) Los Angeles, CA March 30, 2007. Members Liebman and Walsh found that the Petitioner's request for review of the Regional Director's determination raised no substantial issues warranting reversal and affirmed the Regional Director's decision to hold the decertification petition in abeyance pending resolution of the outstanding unfair labor practice charges against the Employer. In its charges, Stage Employees IATSE alleges that the Employer violated Section 8(a)(5) of the Act by refusing to sign the contract reached by the parties and by withdrawing recognition from the Union. [HTML] [PDF]

Chairman Battista, dissenting, would not block the election. He noted that a substantial majority of unit employees (18 of 25) expressed their disaffection from the Union before the allegedly unlawful conduct. Chairman Battista observed that it is neither asserted that the petition was tainted by the allegedly unlawful conduct nor that the alleged contract is a bar to the petition or that it precludes a challenge to the Union's majority status. Also, it is not asserted that the withdrawal of recognition precludes the processing of the petition. The Chairman stated: "The only issue is whether to hold the election now, with the possibility of setting it aside if the election atmosphere is shown to be coerced by unlawful conduct *or* to not hold the election now because of the *possibility* that (a) the unfair labor practice charges have merit and (b) they produced a coercive atmosphere. . . . I would not allow these *possibilities* to outweigh the benefits of a secret election now."

Members Liebman and Walsh acknowledged that the showing of interest supporting the employees' disaffection petition was obtained prior to the Employer's alleged unfair labor practices and that there is no allegation that the petition is "tainted" by the alleged unlawful conduct. They explained however that a complaint has issued against the Employer based on meritorious charges alleging a withdrawal of recognition and the failure to sign a contract—serious and unremedied unfair labor practice allegations affecting all unit employees notwithstanding an untainted showing of interest. The majority agreed with Chairman Battista that the employees have a right to and an interest in an expeditious vote regarding their representation, adding: "But, employees also have the right to an election that reflects their untrammeled views. In order to effectuate this right, the Board's blocking charge procedures fulfill its longstanding policy that elections should be conducted in an atmosphere free of *any* type of coercive behavior that could affect employee free choice sufficiently to sway the outcome of the election."

(Chairman Battista and Members Liebman and Walsh participated.)

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Schwickert's of Rochester, Inc. and Schwickert, Inc. (18-CA-16899, et al.; 349 NLRB No. 65) Rochester, MN March 30, 2007. The Board adopted the administrative law judge's supplemental decision, and ordered the Respondents to pay Ryan Augustin the sum of $4,669.64, Jerry Mundt the sum of $23,526.00, and Ben Pugh the sum of $38,893.00; and to pay amounts totaling $521,642.91 to the Union's benefit funds on behalf of the three employees and certain other unit employees. [HTML] [PDF]

The Board in 2004 found that the Respondents violated Section 8(a)(5) of the Act by withdrawing from multiemployer bargaining, withdrawing recognition from Roofers Local 96 and refusing to bargain with it, and unilaterally implementing changes in terms and conditions of employment; violated Section 8(a)(3) by constructively discharging five employees; and violated Section 8(a)(1) by telling employees that they would no longer be represented by the Union and by providing employees with union resignation forms and envelopes in which to mail them. 343 NLRB 1044. This supplemental proceeding involves the amounts owed to three employees whose backpay amounts were in dispute and the payments owed to fringe benefit funds on behalf of the three employees and other unit employees.

(Chairman Battista and Members Liebman and Walsh participated.)

Hearing at Minneapolis, April 18-19, 2006. Adm. Law Judge Jane Vandeventer issued her decision July 28, 2006.

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T.E. Briggs Construction Co., Inc. (19-CA-28619, et al.; 349 NLRB No. 61) Edmonds, WA March 30, 2007. The administrative law judge found, among other things, that the Respondent violated Section 8(a)(3) and (1) of the Act by failing to reinstate employee Steven Scheffer, whom the judge found was an unfair labor practice striker, after Scheffer made an unconditional offer to return to work. The judge found that the Respondent should have offered Scheffer reinstatement to a laborer position and an equipment operator position, both substantially equivalent to Scheffer's prestrike position as a pipelayer. The Board modified the judge's findings in two respects. [HTML] [PDF]

First, although the Board affirmed the judge's finding that Scheffer engaged in a strike, it found it unnecessary to pass on the judge's determination that he was an unfair labor practice striker rather than an economic striker. The Board noted that the reinstatement rights of an unfair labor practice striker and an economic striker are the same if the employee has not been permanently replaced. There is no evidence, or claim, that the Respondent permanently replaced Scheffer. Second, although the Board affirmed the judge's finding that the Respondent unlawfully failed to offer Scheffer reinstatement to a laborer position, it reversed the judge's finding that the Respondent was also required to offer Scheffer an equipment operator position. Unlike the judge, the Board found that the equipment operator position was not substantially equivalent to Scheffer's prestrike job as a pipelayer.

Chairman Battista and Member Walsh adopted the judge's finding that there is "overwhelming evidence" establishing that Scheffer did not abandon his employment with the Respondent. They acknowledged that the judge limited the Respondent's cross-examination of Scheffer on the issue of job abandonment, and that the Respondent excepted to the judge's ruling. Assuming that the judge's ruling was erroneous, Chairman Battista and Member Walsh

reasoned, the Respondent failed to show that the testimony it seeks to adduce would warrant reversal of the judge's finding. Member Schaumber would reverse and remand the job abandonment issue to the judge to take further evidence.

On other alleged violations, in adopting the judge's finding that the Respondent violated Section 8(a)(1) when one of its supervisors told Scheffer that he would not be hired because of his union activities and threatened to throw a rock at him, the Board did not rely on *Industrial Construction Services*, 323 NLRB 1037, 1039 (1997), cited by the judge. No exceptions were filed to the 8(a)(1) findings made by the judge in that case and thus, *Industrial Construction* cannot serve as a precedent for the 8(a)(1) violations found here. See *Whirlpool Corp.*, 337 NLRB 726, 727 fn. 4 (2002), enfd. mem. 174 LRRM 2480 (6th Cir. 2004). For the same reason, the Board did not rely on the judge's citation to *Quality Mechanical*, 340 NLRB 798 (2003), in adopting his dismissal of allegations that the Respondent unlawfully refused to consider for hire, or hire, applicant Tom Stuart. No exceptions were filed in *Quality Mechanical* to the judge's dismissal of similar allegations. The Board affirmed the judge's recommended dismissal of the allegation that the Respondent unlawfully refused to consider for hire six other union-affiliated applicants.

(Chairman Battista and members Schaumber and Walsh participated.)

Charges filed by Operating Engineers Local 302; complaint alleged violation of Section 8(a)(1) and (3). Hearing at Seattle, Dec. 16-18, 2003. Adm. Law Judge John J. McCarrick issued his decision April 8, 2004.

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Trim Corp. of America, Inc. (29-CA-26325, et al.; 349 NLRB No. 56) Brooklyn, NY March 26, 2007. Members Liebman and Walsh affirmed the administrative law judge's findings that the Respondent violated Section 8(a)(5) and (1) of the Act by withdrawing recognition from Auto Workers Local 2179 and Section 8(a)(1) by threatening employees with loss of employment if they did not withdraw the Union's authorization to represent them. Members Liebman and Walsh found, as did the judge, that the 8(a)(1) allegation was timely under Section 10(b) because it is closely related to the timely alleged 8(a)(5) violation and that the Respondent was afforded due process. Chairman Battista dissented in part. [HTML] [PDF]

The judge found that, although the 8(a)(1) allegation was first asserted in the General Counsel's posthearing brief, it was both sufficiently related to the timely-alleged withdrawal-of-recognition allegation and fully and fairly litigated. Members Liebman and Walsh found that the three-part "closely related" test set forth in *Redd-I*, 290 NLRB 1115 (1988), was satisfied. Under *Redd-I*, the Board considers: (1) whether the otherwise untimely allegations of the amended charge involve the same legal theory as the allegations in the timely charge; (2) whether the otherwise untimely allegations of the amended charge arise from the same factual situation or sequences of events as the allegations in the timely charge; and (3) whether a respondent would raise the same or similar defenses to both the untimely and timely charge allegations.

Chairman Battista agreed that the conduct set forth in the untimely allegation caused the disaffection from the Union, and that the withdrawal of recognition was thus a violation of Section 8(a)(5). He disagreed however that an 8(a)(1) violation can be based on the untimely allegation, concluding that the 8(a)(1) allegation and the 8(a)(5) allegation do not involve the same legal theory. Chairman Battista also found that the third *Redd I* factor was not satisfied. Finally, he observed not only was there no timely charge, but also there was no complaint allegation and thus, there is a procedural deficiency.

(Chairman Battista and Members Liebman and Walsh participated.)

Charges filed by Auto Workers Local 2179; complaint alleged violation of Section 8(a)(1) and (5). Hearing at Brooklyn on May 3, 2005. Adm. Law Judge Arthur J. Amchan issued his decision June 30, 2006.

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Cellco Partnership d/b/a Verizon Wireless (2-CA-35987; 349 NLRB No. 62) Orangeburg, NY March 28, 2007. The Board upheld the administrative law judge's findings that the Respondent committed several unfair labor practices in response to the Communications Workers' efforts to organize employees at the Respondent's Orangeburg, NY facility. Accordingly, it found that the Respondent violated Section 8(a)(3) of the Act by issuing an oral warning to employee Greg Neubauer on Aug. 28, 2003; and violated Section 8(a)(1) by (1) promulgating and maintaining rules prohibiting union solicitation in employee work areas and on breaktime; (2) promulgating and maintaining a rule prohibiting employees from discussing discipline they received and terms and conditions of employment; and (3) disparately and selectively enforcing its no-solicitation rules only against those engaged in union solicitation. [HTML] [PDF]

Chairman Battista and Member Schaumber found, contrary to the judge, that the Respondent did not violate Section 8(a)(1) by issuing two written warnings to Neubauer on Oct. 8, 2003, and March 25, 2004. Finding merit in the Respondent's exceptions in regard to the two written warnings, they found that Neubauer lost the protection of the Act by making profane remarks in his interactions with other employees.

Member Walsh, concurring in part and dissenting in part, disagreed with the majority's conclusion that the written warnings issued to Neubauer were lawful because he lost the protection of the Act in light of his "fleeting use of profanity in soliciting two of his fellow employees." Having disagreed with that finding, Member Walsh would conclude that the Respondent violated Section 8(a)(3) by issuing the two written warnings. He also wrote separately to discuss his "somewhat broader view of the issues at stake concerning the oral warning, which bears on the disputed allegations."

Agreeing with the judge, the Board dismissed the allegation that the Respondent violated Section 8(a)(3) by discharging Thai Nguyen.

(Chairman Battista and Members Schaumber and Walsh participated.)

Charge filed by Communications Workers; complaint alleged violation of Section 8(a)(1) and (3). Hearing at New York on 13 days between Jan. 25 and April 13, 2005. Adm. Law Judge Steven Davis issued his decision Dec. 23, 2005.

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WLVI Inc. (1-UC-837; 349 NLRB No. 63) Boston, MA March 30, 2007. The Board granted the Employer's request for review of the Regional Director's decision and clarification of bargaining unit solely with respect to whether the newly created position of video journalist working in the Employer's news department should be added to the bargaining unit of technicians represented by Electrical Workers IBEW Local 1128 pursuant to the Board's decision in *The Sun*, 329 NLRB 854 (1999). The Regional Director found that the video journalist should be included in the existing unit. [HTML] [PDF]

Applying *The Sun*, the Board concluded that the photography and editing performed by the video journalist is merely incidental to the video journalist's primary role as a reporter and thus, the video journalist should not be added to the bargaining unit because the position is more similar to that of a reporter, whose work is not included in the unit. It clarified the collective-bargaining unit to exclude the video journalist.

In *The Sun,* the Board set forth a method for analyzing whether new job classifications should be part of an existing bargaining unit where the unit is defined by the work performed. In determining whether the new group, including the new job classification, is sufficiently dissimilar such that the new group is not an appropriate unit, the Board examines the community of interest between the employees to be added and the existing bargaining unit.

Chairman Battista and Member Schaumber noted that they were not on the Board when *The Sun* was decided and do not necessarily agree with that standard. They agreed however that under *The Sun*, the video journalist should not be included in the unit.

The Board denied the Employer's request for review with respect to the Regional Director's finding that the collective-bargaining agreement's nonexclusive jurisdiction clause does not preclude the unit clarification petition

(Chairman Battista and Members Liebman and Schaumber participated.)

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LIST OF DECISIONS OF ADMINISTRATIVE LAW JUDGES

Consolidated Equities Realty #3, LLC d/b/a Bob Townsend/Colerain Ford (Machinists District Lodge 34) Cincinnati, OH March 26, 2007. 9-CA-42545, et al.; JD(ATL)-11-07, Judge George Carson II.

Tortilleria La Poblanita (United Workers Local 660) Yonkers, NY March 26, 2007. 2-CA-37455, et al.; JD(NY)-17-07, Judge Mindy E. Landow.

Roundy's Inc. (Milwaukee Building and Construction Council) Milwaukee, WI March 28, 2007. 30-CA-17185; JD-20-07, Judge Robert A. Giannasi.

Bloomfield Health Care Center (New England Health Care Employees District 1199, SEIU) Bloomfield, CT March 30, 2007. 34-CA-11512, et al., 34-RC-2172; JD(NY)-18-07, Judge Raymond P. Green.

Wal-Mart Stores, Inc. (Food & Commercial Workers Local 99R) Kingman, AZ March 30, 2007. 28-CA-16832, et al.; JD(SF)-09-07, Judge Gregory A. Meyerson.

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TEST OF CERTIFICATION

(In the following case, the Board granted the General Counsel's motion for summary judgment on the grounds that the Respondent has not raised any representation issue that is litigable in this unfair labor practice proceeding.)

C & C Roofing Supply, Inc. (Roofers Local 135) (28-CA-20988; 349 NLRB No. 64) Phoenix, AZ March 29, 2007. [HTML] [PDF]

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LIST OF UNPUBLISHED BOARD DECISIONS AND ORDERS IN REPRESENTATION CASES

(In the following cases, the Board adopted Reports of Regional Directors or Hearing Officers in the absence of exceptions)

DECISION AND CERTIFICATION OF REPRESENTATIVE

MECC Contracting, Brooklyn, NY, 29-RC-11138, March 27, 2007
(Chairman Battista and Members Kirsanow and Walsh)

DECISION AND DIRECTION [that Regional Director open and count a ballot]

The New Fulton Fish Market Hunts Point, Inc., Bronx, NY, 2-RC-23158, March 27, 2007 (Chairman Battista and Members Kirsanow and Walsh)

DECISION AND CERTIFICATION OF RESULTS OF ELECTION

A TO E, Inc., Maspeth, NY, 29-RC-11061, March 28, 2007 (Chairman Battista and Members Kirsanow and Walsh)
Tri-Star Painting, Inc., Caledonia, WI, 30-RC-6650, March 28, 2007 (Chairman Battista and Members Kirsanow and Walsh)

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(In the following cases, the Board denied requests for review of Decisions and Directions of Elections (D&DE) and Decisions and Orders (D&O) of Regional Directors)

Verda Poultry Inc. d/b/a Sun Valley Food Co., Sun Valley, CA, 31-UC-317, March 28, 2007 (Chairman Battista and Members Kirsanow and Walsh)
MidMichigan Gladwin Pines, Gladwin, MI, 7-RC-22625, March 28, 2007 (Chairman Battista and Members Kirsanow and Walsh)

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